

**Council Member                      introduced the following:**

**Ordinance Number 39.92.17**

**ORDINANCE AUTHORIZING A RIGHTS-OF-WAY FRANCHISE WITH EXTENET SYSTEMS, INC. FOR INSTALLATION OF TELECOMMUNICATIONS EQUIPMENT**

**WHEREAS** the State of New York issued an Approval effective December 2, 2005, granting ExteNet's predecessor ClearLinx Network Corporation a Certificate of Public Convenience and Necessity to operate in New York State as a facilities-based provider and reseller of telephone service with authority to operate throughout the State of New York to provide telecommunications services; and

**WHEREAS** federal law provides that the regulation of the placement, construction, and modification of personal wireless service facilities by any local government or instrumentality thereof shall not unreasonably discriminate among providers of functionally equivalent services, and shall not prohibit or have the effect of prohibiting the provision of personal wireless services; and

**WHEREAS** under federal law, a local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request; and

**WHEREAS** state and local law require franchise approval of the Common Council for the proposed use in City rights of way; and

**WHEREAS** ExteNet Systems, Inc. has filed a franchise request with the City of Albany and permit applications with the City of Albany Department of General Services on May 4, 2017; and

**WHEREAS** the jurisdictional boundaries of City include public rights-of-way and facilities that are used by, and useful to, telecommunications providers; and

**WHEREAS** City is authorized by State statutes, regulations and orders to recover just and reasonable costs for administering telecommunications providers' access to the public rights-of-way within City's jurisdictional boundaries.

**NOW THEREFORE**, that the Common Council of the City of Albany hereby authorizes the City Of Albany to enter into an agreement with ExteNet Systems, Inc., its successors and assigns, a franchise to construct, install, operate and maintain telecommunications equipment in the City of Albany for valuable consideration and upon such terms as this Council deems proper, as set forth in the written franchise agreement attached hereto.

**To:** Nala Woodard, City Clerk  
**From:** David A. González, First Assistant Corporation Counsel  
**Re:** Request for Common Council Legislation  
Supporting Memorandum  
**Date:** September 8, 2017

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**GENERAL PURPOSE OF LEGISLATION**

authorizing the Mayor to enter into a franchise agreement between the City and ExteNet Systems,  
Inc.

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**NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW**

Pursuant to State law and City Code, the Council must authorize the use of City right-of-ways for  
franchises.

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**EXPLANATION OF DEADLINE OR REQUESTED TIME FRAME FOR PASSAGE**

N/A

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**SPECIFICS OF BIDDING OR OTHER PROCUREMENT PROCESS (if applicable)**

N/A

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**SPECIFICS OF REAL PROPERTY SALE OR ACQUISITION (if applicable)**

N/A

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**FISCAL IMPACT(S)**

Set forth by written franchise agreement.

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